

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Rona Wynne Havens

HEARING DATE: **March 12, 2020**  
HEARING TIME: **10:00 AM**  
LOCATION: **Brooklyn**

**Case No.: 1-20-40287-cec**

**Chapter 13**

Debtor.  
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**Hon. Carla E. Craig C.U.S.B.J.**

**OBJECTION TO CONFIRMATION  
OF DEBTOR'S CHAPTER 13 PLAN**

Wilmington Savings Fund Society, FSB, D/B/A Christiana Trust, Not Individually But As Trustee For Pretium Mortgage Acquisition Trust (the "Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Chapter 13 Plan (the "Plan"), and states as follows:

1. Rona Wynne Havens (the "Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on January 16, 2020.
2. Secured Creditor holds a security interest in the Debtor's real property located at 183 Beach 128<sup>th</sup> Street, Belle Harbor, NY 11694-1604, by virtue of a Mortgage recorded on July 8, 2009 in Instrument Number 2009000172048 of the City Register of New York. Said Mortgage secures a Note in the amount of \$450,000.00.
3. The Debtor filed a Chapter 13 Plan on January 21, 2020 (Doc No. 10).

4. It is anticipated that Secured Creditor's claim will show the pre-petition arrears due Secured Creditor is in excess of \$207,601.96 (Proof of Claim due by March 26, 2020). Debtor's proposed Plan fails to provide for payment of any of the pre-petition arrears due and owing. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and (b)(5) and § 1325(a)(5) and cannot be confirmed.

5. Furthermore, Debtor's Plan evidences an intent to seek a mortgage modification through this Court's Loss Mitigation Program. However, in the event this Court orders the parties to participate in loss mitigation and loss mitigation is unsuccessful, Secured Creditor would be entitled to payment of all the pre-petition arrears.

6. In the absence of a loan modification, Debtor is obligated to fund a Plan which is feasible to cure the arrears and total debt due to the objecting creditor within a reasonable time pursuant to 11 U.S.C § 1322(b)(3) and (5). Therefore, in the event that loss mitigation efforts are not successful, the Plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).

7. Secured Creditor objects to any proposed Plan that fails to provide for the total amount of pre-petition arrears due and owing to Secured Creditor.

8. Pursuant to of 11 U.S.C. § § 1322(b)(3) and (5) the Chapter 13 Plan must cure a default owed to a creditor that holds a secured claim within a reasonable time. As stated above Debtor's Plan does not cure the default under the Note and Mortgage held by Secured Creditor. Therefore, the Plan cannot be confirmed as is not feasible and is not in accordance with the requirements of 11 U.S.C. §§ 1322(b)(3) and (b)(5).

9. As the Plan fails to comply with 11 U.S.C. § 1322(b) and Secured Creditor does not consent under 11 U.S.C. § 1325(a)(5)(A), the Plan does not meet the requirements for confirmation under 11 U.S.C. § 1325(a)(1).

10. Based on the foregoing, Secured Creditor objects to confirmation of Debtors' proposed Plan.

**WHEREFORE**, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

Date: February 14, 2020  
Westbury, New York

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on February 14, 2020, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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Date: February 14, 2020  
Westbury, New York

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